



VOL. CXV.

LONDON: SATURDAY, SEPTEMBER 1, 1951.

No. 35

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NOTTINGHAMSHIRE

Appointment of Male Probation Officer

The Nottinghamshire Combined Probation Committee invite applications for the appointment of full-time Male Probation Officer at a salary in accordance with the Probation Rules, 1949, as amended.

Forms of application, with conditions of appointment, may be obtained from my office and completed forms must be received by me not later than September 10, 1951.

K. TWEEDALE MEABY,
Clerk of the Peace.

Shire Hall,
Nottingham.

COUNTY OF NOTTINGHAM

Petty Sessional Divisions of Nottingham and Bingham

APPLICATIONS are invited from suitably qualified Solicitors or Barristers for the appointment of whole-time Clerk to the Justices for the above Divisions, at a personal salary of £1,650 per annum without prejudice to the adoption by the Standing Joint Committee for the County of more favourable scales of salary which may be formulated and recommended by any Joint Negotiating Body set up on a National level.

Staff, equipment and office accommodation will be provided. The position is superannuable (subject to medical fitness) and the appointment is subject to confirmation by the Secretary of State.

Applications, stating age, qualifications and experience, with copies of not more than three recent testimonials, and marked "Justices' Clerk" must reach the Magistrates' Clerk's Office, Shire Hall, Nottingham, not later than September 10, 1951.

C. E. COLLYER,
J. BEETHAM SHAW,
Chairmen.

COUNTY OF DERRY

Appointment of Whole-time Woman Probation Officer

APPLICATIONS are invited for appointment of a whole-time Woman Probation Officer to serve the Chesterfield Borough and the Alfreton Petty Sessional Divisions of the Derbyshire Combined Probation Area.

The appointment and salary will be subject to the Probation Rules, 1949-50. The officer appointed will be required to provide a motor car (for which an allowance will be paid), and to undergo a medical examination.

Forms of application may be obtained from the undersigned and should be completed to reach me not later than September 14, 1951.

D. G. GILMAN,

Clerk to the Derbyshire Combined Area Probation Committee.

County Offices,
Derby.

NEW FOREST RURAL DISTRICT COUNCIL

Appointment of Clerk to the Council

APPLICATIONS for the above appointment are invited from Solicitors having wide experience in local government law and administration. The salary is in accordance with the recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks for a population within the 30,000-45,000 scale.

The conditions of service for the Joint Negotiating Committee for Town Clerks and District Council Clerks will apply.

The appointment will be subject to the Local Government Superannuation Act, 1937, and to the passing of a medical examination.

The appointment will be terminable by three months' notice in writing on either side.

Applications, in sealed envelopes marked "Appointment—Clerk," stating full name, address, age, if married, particulars of education, past and present appointments, qualifications, general experience and present salary, should reach me, with copies of not more than three recent testimonials, not later than September 21, 1951.

Candidates must disclose, when applying, whether they are related to any Member or senior Officer of the Council.

The present Deputy Clerk is not a candidate for the appointment.

Canvassing directly or indirectly will disqualify.

CHARLES DUNCAN PINCHIN,
Chairman of the Council.

Council Offices,
Lyndhurst, Hants.
August 24, 1951.

COUNTY BOROUGH OF SOUTHEND-ON-SEA

Senior Probation Officer

APPLICATIONS are invited from male probation officers for the above appointment with effect from January 1, 1952.

The salary will be in accordance with the Probation Rules, 1949, as amended, with an additional allowance of £50 per annum.

Applications, giving the names of two referees, should reach the undersigned by September 21, 1951.

H. HOMFRAY COOPER,
Secretary to the Probation Committee.

1 Nelson Street,
Southend-on-Sea.

MONMOUTHSHIRE COMBINED PROBATION AREA

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the appointment of a full-time male Probation Officer for duty in part of the County of Monmouth (comprising the Caerleon, Chepstow and Newport County Petty Sessional Divisions).

Applicants must not be less than 23 and not more than 40 years of age, except in the case of a serving full-time Probation Officer.

The appointment will be subject to the Probation Rules, 1949-50, and the Probation Officers (Superannuation) Order, 1948, and the salary will be in accordance with the scale prescribed by the Rules.

The successful candidate will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of not more than three recent testimonials, must reach the undersigned not later than September 10, 1951.

VERNON LAWRENCE,
Clerk of the Peace and of
the Probation Committee.

County Hall,
Newport, Mon.

COUNTY BOROUGH OF SOUTHAMPTON

Town Clerk's Department

APPLICATIONS are invited for the appointment of two Assistant Solicitors, one (in Grade VIII) to take charge of the conveyancing section of the Department, and the other (in Grade VII) to assist in a more general capacity (advocacy, committee work, etc.). The latter should have had at least two years' legal experience from date of admission, but if it should prove necessary to appoint someone with less experience the appointment would be in Grade VI(a).

Each appointment will be determinable by three months' notice on either side, and will be subject to the National Scheme of Conditions of Service, to the Local Government Superannuation Act, 1937, and to a satisfactory medical examination.

Applications, accompanied by copies of three recent testimonials, must be received at my office by September 19, 1951.

R. RONALD H. MEGGESON,
Town Clerk.

Civic Centre,
Southampton.
August 24, 1951.

Justice of the Peace and Local Government Review

[ESTABLISHED 1887.]

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NOTES of the WEEK

Finding and Keeping

It is widely known that there is such an offence as larceny by finding, and that the legal duty of the finder of property is to restore it to the owner if that person is known or can be ascertained by taking reasonable steps. Quite apart from the law, anyone with a proper sense of right and wrong would recognize the moral duty of not keeping something that belongs to someone else who can be found with a little trouble. That is just ordinary honesty.

There is a special obligation upon certain persons, such as taxi cab drivers, to deliver to the police any property left behind in their vehicles. This is created by statute or bylaw, and of course a failure to fulfil the duty is an offence. Recently a Bristol driver was fined £5 for failing to hand over promptly to the police a box containing money which a passenger had left in his cab. There was no suggestion of dishonesty, but only of delay.

What made the offence of some importance was the fact that, the loser having reported the loss, the police proceeded to interview fifty local taxi drivers in the attempt to trace the vehicle in which the box must have been left. This must have involved a considerable waste of police time, and everyone knows the police are under strength and cannot afford to indulge in unnecessary work. It was in fact several days before the driver went to the police with his find, and all trouble could have been avoided, and the loser's mind have been set at rest, if only he had acted promptly.

The defendant's excuse was that he was not aware of the bylaw, which required property to be deposited within twenty-four hours, but the chairman of the bench said he had treated the matter too lightly.

Magistrates Against the Police

There is an unfortunate impression in some quarters that magistrates are too apt to support the police, even in doubtful cases. We do not think this is often justified nowadays, but it is at all events a change to report an instance in which the court was against the police from start to finish, and made it clear from the outset that it would by all legitimate means oppose the police and prevent them from succeeding.

Fortunately, the occasion was not the hearing of a case, but was a cricket match between Coventry magistrates, assisted by court staff, and Coventry City Police. The result was a victory for the court by fifteen runs, after what proved to be a keen and enjoyable game. We notice among the court team the learned clerk and his deputy. Mr. Murdoch, who is doubtless a Scotsman

and therefore probably more addicted to golf than to cricket, managed to go in to bat last, and, if he scored only two runs, could at least boast that they could not get him out. Mr. Barlow ran into double figures.

There may have been other similar matches, but we have not heard of any. There have been many instances of police prowess in the cricket field, and some forces have been able to put a fine team against redoubtable opponents. It is also true that there must be many magistrates who, if no longer quite young, can make a good show, even against a team whose average age may be less. For courts and police to meet in friendly combat in what is the best of all English team games, is good for both sides, giving them a chance of forgetting for the time being the kind of business that usually brings them together, and of seeing what good fellows they all are.

A Stipendiary Magistrate Cricketer

There have been professional magistrates who have been good cricketers, of whom the most notable was probably Mr. C. K. Francis, who died while still on the bench, in 1925. Mr. Francis, who was born just a hundred years ago, is remembered with affection by many who practised in the metropolitan magistrates' courts in his day. He distinguished himself in the eleven at Rugby, and then, as he liked to relate, became one of the few men who went to both Oxford and Cambridge. It happened in this way: he went up to Cambridge, but his father received a letter from the cricket captain at Oxford, suggesting that if young Francis came to Oxford there would be a place for him at once in the eleven. The change accordingly took place, and a great career in county and other first-class cricket followed, Mr. Francis becoming one of the most outstanding all-round amateur players of his time.

Cricket seems to attract the best types of men, and to bring out their best qualities. Mr. Francis used to declare, to his friends, that he was no lawyer, and although he was perhaps a little too modest in so saying, it is true that it was his robust common sense, coupled with an unerring instinct for fair play, which earned for him the respect and affection he undoubtedly enjoyed.

He could rarely be induced to tell of his own exploits, preferring to talk of "W.G." and other great contemporaries, but he liked to recall old associations. On one occasion, the famous Surrey batsman, Robert Abel, who in retirement was running a shop, had to appear as a witness before Mr. Francis. He gave his name, and the magistrate looked at him for a moment. The

big elderly amateur and the little elderly professional exchanged a glance. Then with a smile the magistrate asked: "Ain't you the little fellow we used to call 'the Guv'nor'?" "Yes, your worship," was the reply. The magistrate turned to the clerk, and, obviously in happy recollection, announced: "Played against him scores of times!" Then the more serious business was resumed, but everyone felt as if a breath of fresh air had passed through the stuffy court.

Enforcing Guardianship Orders

We noted with interest that the Home Office circular letter which deals with the Guardianship and Maintenance of Infants Act, 1951 (see p. 512, *ante*), after referring to the powers given to the courts by this Act to order certain payments for the maintenance of children to be continued, under the Married Women (Maintenance) Act, 1949, after the age of sixteen if the child is engaged in a course of education or training, states that "similar provision is not required in respect of orders under the Guardianship of Infants Acts, since, although the original jurisdiction of a court of summary jurisdiction is limited to dealing with infants under the age of sixteen there is nothing to prevent the order continuing up to the age of twenty-one."

The question whether or not an order under the Guardianship Acts may be enforced after the child has reached the age of sixteen is one which has given rise to a good deal of discussion, and is still one on which we still think there is room for difference of opinion. In an article at 112 J.P.N. 712 the suggestion was made that the alteration in procedure introduced by s. 53 of the Children Act, 1948, strengthened the view that such orders could be enforced after the child was sixteen, but on the other hand the article stressed the necessity of considering the general tenor of legislation dealing with the maintenance of young children, and this indicated that the legislature generally was concerned with maintenance up to the age of sixteen only. The conclusion of that article was that where the infant was capable of self support the court should, if the father made application, revoke the order as to payments on the child attaining the age of sixteen, but that where the infant was "physically or mentally incapable of self support" the court might continue to enforce the order.

Since that article was written there has been the legislation to ensure the maintenance, under the Married Women Acts, of a child up to the age of twenty-one where the child is being trained or educated, and to this extent the argument against the power of the court to enforce a guardianship order after the child has reached the age of sixteen, is weakened. It is perhaps a pity that the opportunity was not taken in this recent Act to dispose finally of this difficulty which still seems likely to trouble the courts.

Child Trespassers

The primary defendant in *Edwards v. Railway Executive and Edwards v. Woolwich Corporation* (*The Times*, July 26, 1937), was the Railway Executive, but the case is of interest to local authorities, being not unlike many that are put to us from time to time as Practical Points. The infant plaintiff, nine years old, had been playing in a recreation ground belonging to the local authority and made his way on to an adjoining railway line, where he caught his foot in the metals and had an arm cut off by a passing train. It seems to have been accepted as a fact that the fence was broken through frequent interference by children in the recreation ground, although it may be probably accepted equally that the Railway Executive, and its predecessors the railway company, had complied with the statutory requirements on the subject of fencing railway lines. The local authority

succeeded, both in the King's Bench Division and in the Court of Appeal, upon the ground, succinctly stated by Singleton, L.J., that a local authority which provides a recreation ground is not obliged to cage in members of the public (even children) who use it. This approach may be found to answer many of the queries which arise in practice among our own readers. Against the Railway Executive the plaintiff recovered before a jury in the King's Bench Division (which in the view of the Court of Appeal had been moved by their sympathy with an injured boy), but the decision in his favour was reversed upon appeal, on the ground that he was a trespasser, and there was no reckless disregard for his safety by the Executive. This is another step in the development of the law on the subject of the duty of a property owner towards children who make their way on to his premises. Text-books on tort contain references to several cases where the Courts were in danger of allowing themselves to say that every allurement to children was an invitation, thus adopting a principle which would have put on property owners a higher obligation towards trespassing children than towards other trespassers. Local authorities who themselves are large property owners, possessing various types of property which (like railway lines) may present special allurement to children, may note with satisfaction this new decision of the Court of Appeal. Leave was granted to appeal to the House of Lords, so that in a year or two it may be necessary to revise present ideas about the case but, as the judgment stands at present, it seems to us to accord with the better opinion to be arrived at by study of the earlier cases.

Weights and Measures Inspection in Kent

Fuel, whether liquid or solid, is expensive nowadays, and in the case of solid fuel in short supply. It is therefore of the utmost importance that the consumer should get what he pays for. In the report of the Chief Inspector of Weights and Measures to the Kent County Council, it appears that the motorist is practically certain to get just measure, and that it is the retailer who is more likely to suffer through receiving short measure from the wholesaler.

The report says, on this matter: "The retailer is subject to very strict supervision concerning his sales to the public and is liable to prosecution for using an unjust measuring instrument or for giving short measure. It therefore seems farcical that petrol should be measured to him by his supplier by means of a dip-stick, the accuracy of which is not subject to supervision by an inspector of weights and measures. Even if the accuracy of the dip-stick is accepted, the correct manipulation may well be dependent on the person in charge of the tanker vehicle. The purchaser cannot always be available to check the readings or make the calculation necessary."

"If stamped and verified appliances are compulsory for retail sales it seems reasonable that the same safeguards should apply to wholesale deliveries."

As to coal and coke, the position of the customer is not so satisfactory, and there is a good deal of short weight delivery, much of it due to fraud. The public has taken to heart a suggestion made in last year's report that householders should observe the delivery, and so in some instances they have been able to give evidence that the coal had not been touched between delivery by the coalman and the arrival of the inspector. The shortage of coal last winter caused queues at some of the yards. An inspector joined a queue and asked for his 28lb. of coal. As he received only 25½lb. proceedings followed.

The necessity for accuracy in weighing appliances used for medical purposes is obvious. Arrangements have, therefore, been made for regular testing of weighing machines and weights in use at hospitals, welfare centres, schools and school canteens.

On the subject of beer, the report suggests the need for the public to be safeguarded. "As there are now minimum standards for so many articles of food and drink, consideration might well be given to standards for draught beer so that the public analyst could say whether or not a sample is genuine in that respect. The necessity for regulated minimum standards of strength for beer sold retail appears to be just as essential as it is for spirits."

The extent to which purchasers may be defrauded, was shown by the sale of "white pepper" to a hospital. In this case there was a mixture of 85 per cent. cereal and 15 per cent. black pepper. The firm had purchased the pepper as "White Pepper Salvage stock" in 1948 at 2s. 2d. per pound, and resold it in 1950 in one ounce cartons at 16s. per pound.

It is satisfactory to find in this report the statement that the number of infringements of the law is comparatively small, and that very few are due to dishonesty. Far more are the result of carelessness, wear and tear or mistakes in the use of instruments and appliances which are not thoroughly understood by the users.

A Question of Venue

The Kent report propounds an interesting question of local jurisdiction. "Sampling officers are, generally speaking, empowered to take samples of food or drink where such articles are sold. Inspectors of the department boarded a train at Canterbury and purchased and sampled whisky while the train was travelling through the county. Included in the particulars it was necessary to obtain was the petty sessional area through which the train was travelling at the time of the purchase. There was no difficulty in ensuring correct information on this point but one wonders how the place of sampling will be pin-pointed when samples are taken in airliners."

There are two reasons why the case in question need not have caused any difficulty, even if the precise whereabouts of the train could not have been fixed. Although county justices are commonly assigned to a petty sessional division, their jurisdiction is not thereby limited to offences alleged to have been committed in that division, and they have jurisdiction throughout the county. There is, besides, that useful enactment, s. 46 of the Summary Jurisdiction Act, 1879, which deals with offences committed near the boundaries of different jurisdictions and specifically provides for the trial of offences committed in the course of a journey by land or water. Where an offence is alleged to have been committed upon a person or in respect of any property in a vehicle on a journey, there is jurisdiction in any court of summary jurisdiction through whose district the vehicle has travelled.

Communication Pipes Under Streets

We receive inquiries from time to time about the status of water pipes connecting the main to a consumer's premises, so far as these pipes lie outside the consumer's curtilage. There is probably some misapprehension about the effect of the Water Act, 1945. Schedule 3 to that Act is confusing. As everybody knows, it embodies a code which is intended to take the place of the Waterworks Clauses Acts, 1847 and 1863, and one of its provisions lays it down that what the Act calls a communication pipe (that is, broadly speaking, so much of the connexion between the main and the consumer's premises as lies below his stopcock) shall be laid by the undertakers, but that the consumer must repay them. Schedule 3, however, does not automatically and everywhere apply; we have found, even recently (six years after the passing of the Act) an impression that it does not apply anywhere unless put in force by order

of the Minister of Local Government and Planning. In reality some of its provisions including what we have just mentioned are put in force by sch. 4 in all areas where water is supplied under the Public Health Act, 1936. The effect is that in these areas the local authority is responsible under s. 40 in the schedule for laying the communication pipe, and under s. 44 for maintaining it, but that the cost of laying is recoverable from the consumer. In areas where the local authority or a statutory board or company operates under a local Act, and sch. 3 of the Act of 1945 has not been applied by order, either s. 42 or s. 52 of the Waterworks Clauses Act, 1847, still usually applies, the former providing that the undertakers shall lay the pipes to which it relates and keep them in repair, the latter requiring the consumer to lay the communication pipe at his own expense, and inferentially leaving him afterwards to bear the cost of upkeep. Both codes contemplate that the communication pipe will be laid when the consumer wants it, not before. This has often meant that streets have been broken up piecemeal for the laying of new pipes. The Minister of Local Government and Planning has accordingly commended to all water undertakers the practice of those who, when laying a new main, will lay also so much of the communication pipes branching from it as is under the highway, and will afterwards maintain these pipes. Doubts have been expressed about the legality of this practice, since the Act of 1945 no less than the Acts of last century contemplate the laying of communication pipes as and when required, and not putting them in advance. The Minister has accordingly stated that, at the first opportunity, he intends to introduce legislation to make the practice legal and (we suppose) universal. Meantime "he would not wish to discourage authorities from continuing or adopting this practice". The precise legal effect of this ministerial absence of discouragement may be debatable, but local authorities and other undertakers who supply water are not likely to have anything to fear from the district auditor in this context so that, for practical purposes, the effect of the circular should be to relieve individual consumers of this particular item of cost. This advantage to them is balanced by the fact (which is the chief reason for putting the responsibility on the undertaker) that the cutting up and remaking of streets will be systematized, and the laying of water mains under the verge (where there is one) on one side of the street instead of in the middle of the street will become more usual.

More Street Music

We noticed at p. 466, *ante*, the decision of London Quarter Sessions allowing an appeal against the conviction at Marlborough Street of one Rayinski, who was alleged to have used a noisy instrument for the purpose of obtaining alms. Rayinski is a saxophonist, and the newspapers say he was once described by Bernard Shaw as "probably the greatest virtuoso since Paganini." He admitted that he was playing his instrument in West End streets, and that he was soliciting money—as did Paganini, Handel, and most other artists, including Mr. Shaw himself, but he was not, he said, obtaining or soliciting alms. He sought professional fees of indeterminate amount; this defence was accepted by the Sessions. Not long afterwards he was (we notice in a London newspaper) again prosecuted, on a fresh charge but nearly the same facts. This time the charge was not of playing his instrument for the purpose of obtaining alms but of playing it for the purpose of obtaining money. The learned magistrate discharged him, after it had been pointed out that every street musician uses a noisy instrument for the purpose of obtaining money, and that literal use of paragraph 14 of s. 54 of the Metropolitan Police Act, 1839, would entirely prevent street musicians from carrying on their profession. We dealt in

our previous Note with some aspects of the law affecting street musicians in the metropolitan police district, a class towards whom in later legislation Parliament has shown some tenderness. It may be also pointed out that the paragraph under which, we gather, Rayinski was each time prosecuted creates other offences. A person may not play a horn or use any other noisy instrument for the purpose of calling persons together; this appears to render an offence the use by politicians, preachers, or others of bands or loud speaker vans. Nor may a person use a noisy instrument for the purpose of announcing any show or entertainment—this seems to be aimed at Mr. Punch. It is also an offence

to use a noisy instrument for the purpose of hawking, selling or distributing, or collecting, any article. Mr. Geoffrey Raphael at Marlborough Street said he thought this enactment was designed to stop persons "doing such things as banging drums to attract buyers of bootlaces." This is no doubt true, but the words quoted would also penalize the muffin man and the picturesque person in a tall hat (if still alive) who perambulates the West End ringing a bell and calling for old metal. The enactment is, indeed, an example of the sort of thing that gets into local legislation, not in London alone, and is then discovered to be so oppressive as to be unenforceable.

THE CRIMINAL STATISTICS, 1951

It is always difficult to decide which features of these annual statistics are most likely to interest the average reader. Probably one cannot do better than to pick more or less at random from the mass of information which is provided and to try to see what conclusions, if any, can be drawn by comparing one set of figures with another.

We begin with what is called the "Introductory Note," a title which hardly does justice to the great amount of detail which is given in that part of the return.

In chapter III of this is given a table showing for each of the years 1938 to 1950 figures, under different headings, of the indictable offences known to the police and cleared up. The total for 1938 was 238,220 and for 1950, 461,435. The highest figure is that for 1948, 522,684. Last year's figure was 1,566 higher than that for 1949.

From table E on p. 17 we get figures of indictable offences known to the police shown under the headings of the annual averages for 1930-39, for 1940-44 and for 1945-49 and of 1950 as a separate year. From this table we learn, as is to be expected from the increases over the 1938 figures shown in chapter III, that there has been a considerable increase in recent years in the number of offences per million of population. For 1930-39 the figure was 5,684.6 per million, for 1940-44 it was 8,656.0, for 1945-49 it was 12,783.6 and for 1950, 12,097.2. There are large percentage increases in some of the more serious crimes. For burglary and housebreaking the respective figures per million are 965.7; 1,385.9; 2,832.4 and 2,433.9. For robbery and extortion they were 8.0; 16.2; 29.4 and 29.9. These figures are for indictable offences known to the police. In the continuation of table E are given corresponding figures per million of population of persons sent for trial or dealt with summarily for indictable offences, and the figures for the same periods are 1,850.4; 2,636.3; 3,283.7 and 3,224.2 per million respectively.

Unfortunately it is not possible from these figures to say to what extent the increase in the number per million is due to more people committing offences, or whether it is largely accounted for by individual offenders committing more offences. Paragraph 6 of the introductory note tells us that if a person is prosecuted on two or more separate occasions he is recorded once on each occasion. In 1950, however, for the first time an analysis was made to show the number of different persons in each of various age groups who were found guilty of indictable offences during the year, together with the number of additional findings of guilt recorded on each occasion at the same time. These figures give us the interesting information that the figure of 116,021 given in para. 13 of the introductory note as the total of males and females found guilty of indictable offences in 1950 can be reduced to one of 109,911 as the number of different

persons concerned. From these figures it would appear almost certain that a large part of the percentage increase per million over the pre-war years is due to more persons committing offences, a conclusion which is to be regretted as showing an increase in the law breaking section of the community at a time when the law-enforcement section, the police, is finding it difficult to recruit adequate numbers to cope with its ever-increasing duties.

The figures which show the numbers in different age groups who have been found guilty of offences are always interesting. Details appear for the groups (a) age eight and under fourteen; (b) fourteen and under seventeen; (c) seventeen and under twenty-one; (d) twenty-one and under thirty; and (e) thirty and over. The years dealt with are 1938, 1948, 1949 and 1950. Under the heading of Larceny, the only group which shows a decrease, in 1950, over the 1938 figure is group (c). Group (a) has gone up from 10,874 to 16,298 and group (e) from 15,676 to 24,171. The totals for all ages are, for the four years, 56,092; 83,490; 73,524 and 73,219 respectively. For breaking and entering, with total figures of 10,853; 23,580; 19,502 and 20,480 respectively, all age groups show an increase over 1938 the heaviest percentage increase, as between 1938 and 1950, being in group (d) with figures for the two years of 1,592 and 4,113. It is rather startling to notice that group (a) has gone up from 4,023 to 7,276 although this latter figure is less than the 1948 one of 7,756. But it will be observed that this group accounts, in 1950, for over thirty-five per cent. of the total offences of this nature; allowance must presumably be made for the fact that in some cases the "breaking" is what is often referred to as "technical." But we do hear of children of these tender ages committing quite deliberate and serious offences of this nature, and we wonder whether sufficient is being done to bring home to them that such conduct will not be tolerated.

Violence against the person shows a substantial increase over 1938 in all age groups, the totals being 1,583 for 1938 and 3,839 for 1950. This latter figure is also higher than those for 1948 and 1949, 3,183 and 3,303 respectively. Here again the eight to under fourteen age group is unfortunately well to the fore, the figures for the four years being thirty-six, 100, eighty-three and 125 respectively. The largest number under this heading is contributed by the twenty-one to under thirty group, with 1,577. It is to be hoped that this tendency to violence amongst young men will not persist, and that courts who have to deal with such offenders will do their best to discourage them from repeating such offences. It is sad to read as frequently as one has done of late of violent attacks by young men on defenceless women, often middle aged or elderly; and it is difficult to see how such offences can be other than deliberate and vicious, deserving treatment on that basis.

There were alarming percentage increases also in offences of robbery in the (a) and (b) age groups. In 1938 fifteen in group (a) and ten in group (b) were found guilty of such offences. For 1948, 1949 and 1950 the figures were, group (a) fifty, fifty-one and ninety-nine, and group (b) forty-eight, fifty-four and eighty-three. One cannot help wondering whether sparing the rod is not spoiling the child, and perhaps if only it were possible to act on that maxim at the time that such offences are committed good might come of it. Fortunately, although the percentage increase is large, the total numbers are still small, but they do represent for these two age groups much too large a proportion of the total of such offences for all age groups, *i.e.*, 127, 493, 466 and 550 for the four years previously mentioned.

Chapter VI of the Introductory Note deals with how courts dealt with persons found guilty of indictable offences. Separate figures are given for the higher courts and for magistrates' courts, and age groups are also separately shown in each case. Incidentally we notice that there appears to be a mistake in the figures for the group seventeen to under twenty-one dealt with by higher courts where the percentage placed on probation is shown for 1949 as thirty-six. The figures are 996 placed on probation out of a total of 3,792, and the percentage figure should, therefore, be shown as twenty-six. Compared with 1938, the years 1948/49/50 show a greater use of imprisonment by the higher courts in this age group. The headings are conditional discharge; probation; fine; borstal training; imprisonment; and otherwise dealt with. For 1938 the percentage figures are 18, 36, 0, 37, 7 and 2. For 1950 they are 13, 31, 3, 34, 14 and 5. In 1948 the imprisonment percentage was as high as twenty-one. The increase, in the post-war years, of imprisonment seems to be at the expense of conditional discharge and probation. A possible conclusion to be drawn from this is that there has been a regrettable increase in the number of crimes committed by this age group which judges, recorders and chairmen of quarter sessions have considered to be too serious to be suitably dealt with by conditional discharge or probation, and the figures for burglary and crimes of violence seem to support this conclusion.

So far as the higher courts are concerned there has also been a drop in the percentage of cases dealt with by conditional discharge and probation in the age twenty-one and over group. In 1938 the percentage figures for conditional discharge, probation, imprisonment and otherwise dealt with were 15.5; 13; 66.3 and 5.3. In 1950 the corresponding figures were 9.5; 12.2; 58.1 and 3.8, but we have to add to them 6.9 *per cent.* fined, and 8.1 and 1.5 *per cent.* respectively sent to corrective training and preventive detention. The total number dealt with by higher courts in this age group in 1950 was almost exactly double that for 1938, *i.e.*, 12,701 and 6,367 respectively. It is to be hoped that corrective training, which the Lord Chief Justice has described as a kind of extension of borstal training, will prove effective in a reasonably high percentage of cases in diverting young men from the path of crime into the less exciting but in the end less unprofitable ways of honesty. Although some of what is now called full employment is described by critics as concealed unemployment, on the ground that too many are employed to do the work that requires to be done, it is doubtful if any young man can say with truth that he is driven to crime because there is no suitable work at a reasonable wage for him to do. Rather is it, in many cases, that they resent any sort of discipline or control, and dislike the regularity and fixed routine of a settled occupation.

Magistrates' courts deal with greater numbers than do the higher courts, and they show a similar tendency to use probation less than in 1938. Taking the age groups under fourteen, fourteen to under seventeen, seventeen to under twenty-one, and twenty-one and over, the percentages of cases dealt with by probation in 1938 were 50, 51, 45 and 16. In 1950 the corresponding figures

were 40, 42, 27, and 9. In the seventeen to under twenty-one group the percentages of cases fined (we are still dealing, of course, only with indictable offences) were eighteen in 1938 and forty in 1950. The new power of committal to quarter sessions for sentence on the ground that the offender's character and antecedents are such that the magistrates' courts' powers of punishment are inadequate is shown as being used both in 1949 and in 1950 in two *per cent.* of the cases in this age group. Actually in 1950 it was something over 2.5 *per cent.*, but these tables do not show any decimal points. In the age twenty-one and over group the figures were two *per cent.* in 1949, and three *per cent.* in 1950.

The total number of indictable offences known to the police in 1950 was 461,435, as against 459,869 in 1949 and 522,684 in the peak year of 1948. The annual average for 1930 to 1934 was 195,026 and for 1935 to 1939 it was 267,286. The numbers of persons committed for trial and dealt with at magistrates' courts for 1930 to 1934, 1948, 1949 and 1950 were 69,548; 139,391; 123,188 and 124,293 respectively, so that the 1930 to 1934 average showed a considerably higher proportion of persons brought to trial, compared with crimes known to the police, than do the post war years. It must always be the aim of the police to increase to the maximum the proportion of offenders who are detected and brought to trial. It is the chance of escaping detection which most encourages the wrongdoer in the vast majority of cases. The police with their depleted numbers are doing their best, and the public, who suffer from the crimes committed, must always remember that it is not only their duty but it is also in their best interests to do all they can to help the police in the prevention and detection of crime.

The tremendous volume of the work of magistrates' courts, including juvenile courts, is shown by the fact that in 1950, 635,146 criminal cases were heard by the adult courts and 72,521 by the juvenile courts resulting in 602,416 convictions in the former and 69,085 findings of guilt in the latter. We must add to this some details of the non-criminal work done by these courts as follows: 4,956 applications to find sureties to keep the peace or be of good behaviour, 5,151 for affiliation orders, 29,502 for maintenance and/or separation orders, 6,952 for orders under the Guardianship of Infants Acts, 5,423 in connexion with various non-criminal matters dealt with by juvenile courts, plus 9,757 under the Adoption Acts. Even these do not exhaust the list, the full details of which are given on pages seventy-one and seventy-two. It must, we think, be a tribute to the way this vast amount of work is done that there were only 1,819 appeals to quarter sessions against the convictions or sentences of magistrates' courts. There were also sixty-five appeals against bastardy orders, nine of which were abandoned and thirty-two more of which were unsuccessful, and seventeen against the refusal to make such orders, three of which were abandoned and six more of which were unsuccessful. Of the 1,819 appeals in criminal cases 278 were abandoned and 819 were unsuccessful. The conviction was quashed in only 267 cases, and sentence was modified in 455 cases.

Such is our selection from the 1950 statistics. Others may find greater interest in matters which we have not touched upon. Figures can be dreary and tiring to study, but we think that this small volume which is so carefully prepared each year always repays consideration by all who are interested in the vital matter of the maintenance of law and order, and this includes (or should include) the vast majority of the adult population. Perhaps even the criminal, if he is sufficiently calculating, studies these figures to help him to decide what are his chances of escaping detection and which is the most likely line of crime to pursue.

RESPONSIBILITY OF PARENTS

By A PROBATION OFFICER

At 114 J.P.N. 245 the law regarding the imposition of penalties on parents was analysed, following on a debate in the House of Lords on the responsibility of parents for the behaviour of their children. It is still sometimes said, however, that this responsibility is even now not properly emphasized by the courts and that, in particular, not sufficient use is made of s. 55 (2) of the Children and Young Persons Act, 1933. Where this is true it is to be regretted, for there cannot be any other provision of the law affecting children which recognizes so well the normal family connexion of child and parent and which seeks to base constructive treatment of delinquency on a natural relationship. This article proposes to examine the use of this power to order a parent to give security and to suggest that there is a case for its proper use on a wider scale.

It is necessary immediately to emphasize that the plea here is not for anything that might be classed as indiscriminate application of the provision. It should only be used in specially selected cases. For instance, if there were special reason to think that a parent would use unreasonable methods with his child in order to save his money, its application should be excluded. Obviously, it should not be applied as the general policy of a bench nor should it be applied, as it sometimes is, on the last minute whim of a magistrate or as a result of an emotional reaction of a member of the bench to the case that is before him. It is an instrument to be used only after proper consideration of a report produced by the probation officer.

Some courts have found the order as to giving of security a useful means of ensuring that a parent co-operates with the probation officer when a probation order has been made. Such orders have tended to be formalities not necessarily marking the gravity of an offence. In these cases there should be no confusion in the minds of bench or probation officer if the time comes to estreat the security. The only point to be considered should be the extent of the co-operation.

The writer would suggest, however, that its greatest value is in the very prevalent case of the parent who has not sought to exercise any proper control over his child. Nothing can be more encouraging to such a parent than the knowledge that the court holds him responsible for the past and present behaviour of his youngster, and that he will have to pay a penalty, fixed in advance, for any future bad behaviour of his child in whatever period is laid down by the court. The act itself lays down no limit on the period.

In another kind of case the power to order security is especially valuable. It is in the case of the young tough who has a number of offences to his discredit and regarding whom there is a body of opinion that he should be committed to a school. In such a case a parent often pleads for another chance—and the lower the standards of the parent, ironically enough, the more he seems to plead and the more annoyed he is if his plea is refused. If the court relents, the consequent risk does not fall on the court, or on the lad, or on his parents, but on the public. It is therefore very easy for such a parent to make such a plea. A greater sense of responsibility would be brought into such pleadings if the parent is specifically told: "You must share the risk the public will have to take." The amount of the security should not be based merely on the resources of the parent but on the gravity of the risk being taken by the public. For instance the habitual bicycle stealer would not for that alone be rated so highly as the habitual shopbreaker who gets away with large quantities of

goods each time or who in the course of his depredations does a great deal of damage.

The general effect on a district of such a policy on the part of the court (assuming that it rigorously applies the forfeiture of the security) would in due course cause the public in delinquent districts to be more conscious than they are at present of the fact that just as they are responsible for their children's bad behaviour, so are they responsible for taking proper steps to train them and seeing that they behave according to proper standards. To illustrate the last point, a huge proportion of parents in delinquent districts make little effort to see that their children come indoors at a reasonable time of an evening. It is quite usual in court cases to find that the parents habitually go to bed before an adolescent lad comes in. There is a general lack of any feeling of responsibility on the part of parents towards their children. One should realize and sympathize regarding many of the causes of this apathetic state on the part of the parents but the fact remains that the children should be protected. The parents must be forced to make an extra effort on their behalf.

The attitude of the court to estreating the security is of the utmost importance. It is essential for the success of this approach to delinquency that the full amount should be estreated in almost all cases. The time to go into the ability of the parent to pay is at the time of fixing the amount of the security. In fact the fixing of the amount of the security should be a matter of some solemnity involving a proper means inquiry. The probation officer, being able, perhaps, to anticipate, would frequently be in a position, having made a more thorough investigation as to means than is usual, to give information to the court without further adjournment. But an adjournment would help to add to the importance of the security. Once the amount has been fixed and there is occasion to estreat the security, the only factor to be taken into consideration is any change in means which will have occurred.

There should be some emphasis on suffering in the making of an order to give security. It is not a question of what the parent can afford to pay but of what it is reasonable to make him pay out of what he cannot afford to pay. This is specially applicable to the parent who pleads for another chance for his bad lad. The yardstick is the risk the public are running if leniency is shown. The parent should have to give security which it will hurt him to pay in proportion to the kind of suffering which will come to the public if his youngster is in trouble again.

The power to demand the finding of sureties was a feature of the now lamented Probation of Offenders Act. We are left without such a power except as enunciated in the Children and Young Persons Act, 1933. There is a case for the renewal of this power of the Probation of Offenders Act, and even for its extension. It should be possible for a court to have brought before it a parent who proved, while his child is on probation, not to be co-operating with the probation officer or not to be accepting his responsibilities with his children. Such a process would require certain safeguards but it would itself mark with the individual and with the public an aspect of the treatment of juvenile delinquency in which today a chief culprit can continue to dodge his responsibilities. With the occasional obstructive parent this would be valuable, but its greatest value would be with the apathetic, lazy, self-centred parents who make such a large proportion of one's cases.

Section 11 (1) of the Criminal Justice Act, 1948, empowers a court to accept security when it is offered. 34 Edw. 3, c.1, gives

a court power to demand sureties in cases involving breach of the peace. There should be legislation enabling a court to demand, before making a probation order, that a second or third security be found other than the parents in all cases with which it deals. The power should only be used in special cases and will produce a result that sometimes the court will be able to say: "Well if your own friends, who know you so much better than we do, don't trust you enough to back your future good behaviour with some money, then you can't expect us to." At the same time, on the positive side, the procedure will serve to mark with the individual and with the general public what a serious matter treatment by a court is. This is a procedure akin to that of remanding on bail. It is strange that the power to demand extra sureties can be used in bail cases—when there may not even be

guilt—and yet it is not possible after the finding of guilt when treatment is being applied.

The writer considers that if the policy he has enunciated is put into practice there should be immediate results on an increasing scale. He hopes, however, that it will have been noted that there is emphasis on results which can only be described as long-term—the effect on a district, the attitude of the public to the juvenile court. He ventures to suggest that a public realizing this careful policy to be in operation in the juvenile courts will have been given an answer to some of its criticism, which is not always without foundation.

Finally, the juvenile courts themselves will have taken a step of prime importance in reversing the tendency of this century to decrease parental responsibility, a tendency which, whatever its cause, undoubtedly fosters juvenile delinquency.

THE LANDS TRIBUNAL ACT, 1949

This short Act (of ten sections and two schedules) establishes the Lands Tribunal for the purposes of determining various questions set out in s. 1 (3) of the Act. These include certain jurisdiction exercised by official arbitrators under the Acquisition of Land (Assessment of Compensation) Act, 1919, and by official referees under Part I of the Finance (1909-1910) Act, 1910, together with questions as to disputed compensation in respect of injurious affection under the Lands Clauses Acts. Other matters entrusted to the jurisdiction of the tribunal are disputes as to the assessment of development values by the Central Land Board under the Town and Country Planning Act, 1947 (s. 1 (3) (d)); valuation for rating (s. 1 (3) (e)), and the discharge and modification of restrictive covenants under s. 84 of the Law of Property Act, 1925 (s. 1 (4) (a)). By s. 1 (5) the Lands Tribunal is also given jurisdiction to act as arbitrator under a reference by consent.

Section 2 of the Act deals with the composition, staff, and expenses of the Tribunal. The composition is determined and appointed by the Lord Chancellor; the president must be either a person who has held judicial office under the Crown or a barrister of seven years' standing. The other members must be barristers or solicitors of the same standing, whilst there must also be representatives of those skilled in the valuation of land. The present president is Sir William Fitzgerald, M.C., K.C. (late Chief Justice of Palestine), and the composition in practice varies from case to case both in numbers and qualifications, the most usual, however, being the president with one legal and one valuer member. Sometimes, though, a member sits by himself in order to exercise the jurisdiction of the tribunal. Section 3 (2) (a) (b) gives the president wide flexible powers of so ordering the composition of the tribunal that a suitable court for each particular class of case is achieved.

Subject to a right of appeal by way of case stated to the Court of Appeal the decision of the Lands Tribunal is final (subs. (4)). Subsection (5) of s. 3 gives the tribunal full powers as to costs subject to certain qualifying provisions contained in the section.

An extensive code of rules regulating proceedings before the Lands Tribunal has been provided by the Lands Tribunal Rules, 1949 (S.I. 1949 No. 2263 (L29)), made under s. 3 (6) of the Act. Matters dealt with in these rules (which are described in greater detail hereafter) include appeals against determinations and from local valuation courts, and references under the Assessment of Compensation Act, 1919, the Lands Clauses Acts, and other Acts. Also regulated are applications under s. 84 of the Law

of Property Act, 1925, relating to restrictive covenants and various aspects of procedure (interlocutory—consolidating of appeals—test cases—sittings—hearing—evidence—right of audience—assessors—expert witnesses—view of land—discovery of documents—consent order—costs, etc., etc.).

Section 4 of the Act provides power to add to the jurisdiction of the Lands Tribunal by Order in Council if it appears that the issues are specially suitable, as relating to the valuation of land or for other reasons, and it is desirable to transfer the jurisdiction to promote uniformity of decision or for the reasons of economy set out in the section.

Section 6 provides for compensation in respect of their loss to be paid to persons who lose office, employment or emoluments due to loss of jurisdiction transferred to the Lands Tribunal under s. 4.

In regard to the assessment of compensation the Acquisition of Land (Assessment of Compensation) Act, 1919, continues to apply, for s. 7 provides that the transfer of any jurisdiction to the Lands Tribunal under the Act shall not affect the principles on which any question is to be determined.

Part I of sch. 1 to this Act sets out procedural provisions of the Acquisition of Land Act, amended and applied, and Part II follows the useful practice of re-printing them as amended.

As previously indicated, the Lands Tribunal Rules, 1949, provide a detailed code of procedure to be followed in respect of appeals to that court.

Notice of appeal in writing must be lodged with the Registrar of the Lands Tribunal in duplicate at 24, Abingdon Street, London, S.W.1. Special forms are provided in respect of appeals under the Claims for Depreciation of Land Values Regulations, 1948, the Planning Payments (War Damage) Regulations, 1949, and for appeals against the decisions of the Commissioners of Inland Revenue. Other appeals must contain the particulars set forth in sub-paragraphs (i) to (vii) of rule 3 (4). In the case of "determinations" the time limit for the appeal is thirty days from service of notice of the "determination" on the appellant. Any "interested person" may appeal and this means generally, any person at whose instance an appeal will lie under the statute giving the right of appeal.

Where the appeal is from a local valuation court this must be laid within twenty-one days from the decision in the prescribed form (rule 8). Every person upon whom notice of appeal is served must, if he intends to appear at the hearing of the appeal, within twenty-one days from the date of the notice of appeal

give written notice of his intention in that behalf and furnish certain particulars. Rule 10 provides that when the net annual value of the hereditament to which the appeal relates exceeds £200 the appellant shall furnish to the registrar and the other parties interested in the appeal a statement of his case including the facts and points of law upon which he will rely, and the parties must be furnished by the registrar with a copy of the documents supplied by the other parties.

Notice must also be given in respect of a reference under the Acquisition of Land (Assessment of Compensation) Act, 1919, the Lands Clauses Acts, and the Local Government Act, 1948, or where the tribunal is acting as arbitrator under a reference by consent (see Part III of the rules) whilst the position as to applications in respect of restrictive covenants under s. 84 of the Law of Property Act, 1925, is dealt with in Part IV.

In Part V various matters of procedure are dealt with. Rules 22 and 23 relate to interlocutory applications and the consolidation of appeals or references whilst rule 24 provides power to select a test case in rating appeals where the appeals appear to the president to involve the same point or points of law.

Under rule 25 interlocutory application may be made to the registrar to alter the place or date of the hearing.

At the hearing, the appellant or person instituting the proceedings begins and the other parties are heard in the order determined by the tribunal (rule 26). Evidence may be given before the tribunal orally or (in special circumstances) by affidavit (rule 27) and the tribunal must hold its proceedings in public except where compensation is claimed in respect of certain work under the Atomic Energy Act, 1946, when proceedings must be in private. In the case of references by consent the tribunal

may sit in private if it sees fit (rule 28) but it is not compelled to take this course. Right of audience before the tribunal is not confined to parties or their counsel or solicitor, but extends (except in the case of appeals from a local valuation court) to a representative appointed by the party in writing. In the case of these last appeals audience is confined to party, counsel, or solicitor or such other person as is allowed by leave of the tribunal (rule 29) to appear.

Rule 30 enables the president to appoint assessors to sit to help the tribunal in the hearing of any particular case which he thinks demands special knowledge. As regards expert testimony, except for an appeal from the decision of a local valuation court not more than one expert witness on either side shall be heard unless the tribunal orders otherwise. There are certain relaxations of this rule in respect of claims for compensation regarding minerals or disturbance of business (rule 31). This rule goes on to provide for interchange through the registrar of valuations, plans, and computations.

By rule 32, the tribunal must, at the reasonable request of a party, inspect the land or hereditament which is the subject of proceedings before the tribunal and any comparable land or hereditament and may in any event do this irrespective of request.

Power to order the trial of a preliminary point of law is invested in the president under rule 37.

The decision of the tribunal must always be given in writing with brief reasons, and the tribunal must give certain specific directions in respect of decisions under the Claims for Depreciation of Land Values Regulations, 1948, or the Planning Payments (War Damage) Regulations, 1949, or on appeals against the decision of a local valuation court (rule 38).

POLICY AND PRINCIPLE

By RAYMOND S. B. KNOWLES, D.P.A., A.C.I.S., L.A.M.T.P.I.

The importance of a periodical review of a local authority's standing orders has often been emphasized. "Only if administrative structure and machinery are kept adjusted to changing requirements can administration continue to be efficient," says Mr. J. H. Warren in *Municipal Administration*, in advocating an annual review of standing orders. "So far as precepts for administrative practice are concerned," Mr. Warren very rightly concludes, "it is next to useless to leave these in the original repositories of old minutes, letters from the town clerk to departmental heads, or scattered files."

Changes in administrative procedure are not, however, the only important things which can easily be "lost" in the mass—dare one say morass?—of council and committee minutes, particularly in the case of a large authority. Every local authority, though not precedent-bound like the higher courts of law, nevertheless from time to time come to decisions involving matters of principle or policy to which they tend to adhere and by which they are guided in the future—though necessarily, and this is the important thing, only so long as the principle or policy is known to succeeding councils. Sir Howard Roberts, the Clerk of the L.C.C., writing in the current number of *Public Administration* on "The Domestic Procedure of the London County Council" draws attention to the procedure adopted by that authority to ensure that decisions on matters of principle are easily available for reference. "In matters of principle reserved for decision by the council," he says, "committees

are required by standing orders to take the directions of the council by means of a recommendation so framed as to enable the council to arrive at a decision apart from the merits of any particular application of the principle. The resolutions of the council are then embodied in regulations, thus enabling committees to deal with applications of the principles without further reference to the council."

How many local authorities do this? Probably very few. Though standing orders may solemnly stipulate, particularly where there is extensive delegation to committees, that there shall be reserved to the council (and these words are quoted from the standing orders of the Surrey County Council) "Any matter arising in the exercise of a committee's delegated functions which involves new policy of major importance or the substantial variation or extension of existing policy," all too often there is no machinery for ensuring that such decisions on policy and on matters of principle are recorded apart from the minutes, or collected together for convenient reference in the future. A principle enunciated by a local authority several years ago is clearly of little use if its present-day application must depend wholly upon the good memory of an officer with long service with that particular authority, who may remember the decision and be able to find it in the minutes. And likewise a decision so worded that it raises doubts as to whether or not it is of general application is equally of little worth for future guidance.

Every local authority, the small no less than the large, would surely find it helpful to good administration and indispensable from the point of view of sustained and coherent practice to arrange (a) that the terms of a decision involving policy or principle should be so couched as to make the policy or principle clearly applicable in the future, and (b) for all such decisions to be collected together in some systematic manner and made available in a convenient form, perhaps in a separate document

supplementary to standing orders. In such circumstances arrangements ought also to be devised (for policy and principle are not immutable) for the periodical revision and weeding out of decisions which are no longer appropriate. If one may twist slightly the meaning of Pope's words:

"Manners with fortunes, humours turn with climes,
Tenets with books, and principles with times."

MISCELLANEOUS INFORMATION

NATIONAL HEALTH SERVICE

Remuneration and Conditions of Service of Officers of Regional Hospital Boards, Boards of Governors and Hospital Management Committees

In accordance with his powers under s. 66 of the National Health Service Act, 1946, the Minister has laid before Parliament regulations with respect to the remuneration and conditions of service of the staff of regional hospital boards, boards of governors and hospital management committees. (Most of the staff of hospital management committees are in law officers of the Regional Hospital Board; the regulations also apply to officers employed by hospital management committees who are not officers of the regional hospital board, e.g., staff employed for purposes of research.)

The purpose of these regulations is to enable a more solid legal foundation to be given to national rates of pay and other conditions of service which are recommended to hospital authorities, as employers, by the Minister. The regulations do not in any way supersede the work of the Whitley Councils which contain representatives of both hospital authorities and hospital staffs and which will continue to conduct negotiations and make recommendations to the Minister on the remuneration and conditions of service which should be applied nationally in the National Health Service.

The regulations give the Minister power to approve remuneration or conditions of service which have been the subject of negotiations by a negotiating body and require boards and committees to apply the approved remuneration or other conditions unless the Minister authorizes any variation. The regulations also give the Minister power to give directions in writing with regard to remuneration or conditions of service when these have not been the subject of an approval after negotiations.

When the regulations come into force, the Minister intends to issue an approval under the regulations of all the current negotiated rates of remuneration and other conditions of service already notified to boards in memoranda from the Ministry and to direct boards to apply such other rates of remuneration and conditions of service as have been notified in Ministry memoranda and have not since been superseded by negotiated rates or conditions. The special arrangements already authorized in Ministry memoranda for transferred officers and other saving clauses in Whitley agreements or Ministry memoranda will be confirmed.

The regulations require boards who are parties to a contract which is at variance with the regulations (i.e., at variance with approvals or directions given under the regulations) to take steps to amend or replace such contracts unless the Minister gives a direction to the contrary. Any board who is party to any contracts at variance with the provisions of existing Ministry memoranda should therefore be prepared to take the necessary steps to amend or replace these contracts as soon as the Minister issues the intended approval and directions mentioned in the preceding paragraph. It is open to boards to ask the Minister to give them a direction authorizing them not to comply with this requirement.

POLICE PAY

The Police Council for England and Wales met on July 24 and 25, under the chairmanship of Sir Malcolm Trustram Eve, to consider the claims for improvements in pay submitted by the Joint Central Committee of the Police Federation; Lord Crook and Sir Alexander Gray sat with Sir Malcolm Trustram Eve as assessors.

An offer of a wage increase of £40 a year for all the federated ranks (i.e., constable to chief inspector) was made in both countries by the representatives of the local police authorities, the Scottish Home Department and the Home Office. Agreement was not reached and Sir Malcolm Trustram Eve and his colleagues have submitted a report to the Home Secretary and the Secretary of State for Scotland embodying their recommendations.

In their report Sir Malcolm Trustram Eve, Lord Crook and Sir Alexander Gray say if the only problem had been to bring the salaries of the police to the generality of that already received by other workers they would not have dissented from a rise of about £40 a year in the salary of constables, though they would have recommended that the same relative increases should have been given to the higher ranks comprised in the Police Federation. They draw attention, however, to the serious manpower shortages in many of the police forces to the special problem and to the responsibilities and obligations which are peculiar to the policeman and distinguish him from other public servants and municipal employees and entitle him to special consideration in matters of pay. They accept the view of the Oaksey Committee that a strong and efficient police service is necessary for the well-being of the community to a greater degree than any other public service in peace time and in the light of these considerations they have recommended increases in pay varying from £70 a year at the minimum of the constable's scale to £130 a year at the maximum of a chief inspector's scale.

After consultation with the Police Councils for England and Wales and Scotland respectively the Home Secretary and the Secretary of State for Scotland have made regulations under the Police Act, 1919, bringing these improved scales of pay into force with effect from August 3, 1951.

The scales of pay are as follows:

	MEN	
	Existing Scale	New Scale
Constable	£330-10-420	£400-10-490-15-505
Acting Sergeant	£430	£515
Sergeant	£445-10-485	£540-10-570-15-585
Station Sergeant	£495-15-510	£600-15-615
Inspector	£530-15-575	£645-15-690
Inspector (Met)	£555-15-600	£675-15-720
Chief Inspector	£605-15-645	£735-20-775
	WOMEN	
	Existing Scale	New Scale
Constable	£290-10-380	£355-10-455
Sergeant	£400-10-440	£485-10-525
Inspector	£450-10-460-15-490	£545-10-555-15-585
Inspector (Met)	£470-10-480-15-510	£570-10-580-15-610
Chief Inspector	£515-15-530-20-550	£625-15-640-20-660

NOTE: With the exception of the constable's scale where there will be a further increment after twenty-five years' service, the incremental structure recommended by the Oaksey Committee has been retained.

REPORT RECOMMENDS GREATER FREEDOM TO LOCAL EDUCATION AUTHORITIES

Recommendations designed to give greater freedom to local education authorities are made in a report by the Education Sub-Committee of the Local Government Manpower Committee. The sub-committee makes suggestions for simplifying the supervision by the Ministry of Education over local education authorities; for reducing the need for such supervision; and for ensuring that, wherever possible, more responsibility rests on the authorities. In a circular accompanying the report, it is pointed out that local education authorities will be notified of consequent changes in procedure from time to time, but that the Minister cannot commit himself at this stage to carrying out those recommendations which require legislation.

The report states that both local government and departmental representatives worked as a team to produce the report and that "suggestions for simplification of procedure, relaxation of control and changes of method have not emanated from one side only; nor have we felt that there have been any reservations, on the one hand about the retention of the key points of control which we think are required if the Minister is to carry out his duties, or on the other hand about

the vesting of a greater measure of responsibility with local education authorities."

The sub-committee adds that it is their hope that as the Ministry reduces to the essential minimum its control of authorities and improves the methods of exercising it, not only will efficiency be increased, but greater freedom and the sense of responsibility will encourage and promote the provision by authorities of better educational facilities.

"When children are well provided for parents are contented," states the report, and "when parents are contented the work of the authorities and the Ministry in considering complaints and appeals is much reduced, setting them free for more constructive tasks."

ROAD AND RAIL APPEAL TRIBUNAL Jurisdiction Transferred to Transport Tribunal

The date on which the jurisdiction of the Road and Rail Appeal Tribunal was transferred to the Transport Tribunal, was August 15. Any communication which would have been addressed to the Road

and Rail Appeal Tribunal should now be sent to the Secretary, Transport Tribunal, Watgate House, 15, York Buildings, Adelphi, London, W.C.2. The office of the Appeal Tribunal at 6, Spring Gardens, London, S.W.1, will become a sub-office of the Transport Tribunal.

The president of the Transport Tribunal has appointed Mr. N. L. C. Macaskie, K.C., Mr. E. S. Shrapnell-Smith, C.B.E., F.C.S., M.Inst.T., M.I.Chem.E., and Captain B. H. Peter, C.B.E., A.M.I.E.E., to hear appeals formerly heard by the Road and Rail Appeal Tribunal. Mr. Macaskie will act as president as respects the hearing and determination of the proceedings.

SHOPS ACT, 1950: CONTINUANCE OF WINTER CLOSING PROVISIONS

An Order in Council was made on August 1, under subs. (1) of s. 7 of the Shops Act, 1950, continuing in force until December 10, 1952, the provisions of the Act relating to the general closing hours of shops during the winter months.

REVIEWS

Rent Control Supplement. By Dennis Lloyd and John Montgomerie. London: Butterworth & Co. (Publishers) Ltd. Price 9s. 6d. net.

This is a supplement and Note-up to the work which we reviewed last year, at 114 J.P.N.20. That work differed in some respects from other books on rent control: in addition to differences of layout and arrangement, which should give it a special place upon the lawyer's bookshelf, it had the merit, when it appeared, of being the most up-to-date text-book on the subject. The present supplement brings it up to date again as at the middle of this year, i.e., everything has come in except the bunch of cases which were decided by the House of Lords or the Court of Appeal in July—some of which we have brought to the notice of our readers in Notes of the Week, pending the availability of full reports. The learned authors also mention in their preface that service men of various categories were to receive additional protection under the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951, coming into force on August 1; the Leasehold Property (Temporary Provisions) Act, 1951, was passed in time to be printed in full. The Note-up is on the lines which are familiar to all our readers, they will be glad to know that the main work is still available, at a cost of 32s. 6d. net for that and the supplement together.

The Leasehold Property (Temporary Provisions) Act, 1951. By J. Muir Watt. London: Sweet & Maxwell, Ltd., and Stevens & Sons, Ltd. Price 7s. 6d. net.

This is No. 8 in the series of booklets issued jointly by these two firms of publishers under the title *Current Law Guide*. We have several times in reviewing previous numbers of the series commended its general utility; amongst those already mentioned have been two or three by Mr. Watt, who is Joint Assistant Secretary of the Chartered Auctioneers' and Estate Agents' Institute, and a specialist in law of this type. The method he adopts, as in previous booklets of the same sort, is that of narrative explanation of the provisions of the Act, section by section but not in the form of annotation of its text. The text is printed separately at the end of the book, with very short notes consisting mainly of cross references. There is a pretty complete index to all the topics dealt with. While Mr. Watt would probably not suggest that a booklet of this sort could compete for the lawyer's purposes, with more conventional treatment (such as is to be found in No. 7 of the Statutes Supplement to *Butterworths Annotated Legislation Service*, where the Act is fully analyzed and furnished with a complete introduction), we think Mr. Watt's book will certainly be useful to auctioneers and estate agents, and to property owners and tenants who wish to know what the Act of 1951 does for them or to them. The Act is a standstill measure, difficult, as Lord Maugham said, even for a lawyer to understand. It came into operation at the midsummer quarter day, but has some retrospective provisions which Mr. Muir Watt duly notices. His short preface about its history and background is informative. The work proper falls into four chapters, of which one is a general exposition, the others dealing respectively with protection for occupiers of residential property, protection for shop tenants, and miscellaneous matters. As with all Mr. Watt's publications which have come into our hands, the book is reliable and readable, and we have no doubt that it will serve a valuable purpose.

The Elements of Local Government Establishment Work. London: George Allen & Unwin Ltd. Price 7s. 6d. net.

This small book of 120 pages was prepared by a study group of the Institute of Public Administration, and published for the Institute by Messrs. Allen & Unwin. The study group comprised eight members drawn from counties and county boroughs, the latter, with one exception, being amongst the largest in the country. So far as local

government is concerned, it is no doubt the local authorities of this type who have the greatest experience of "establishment work," since their duties require very large numbers of employees, much as do the problems of government departments and the biggest commercial firms. The study is conscientious and complete; it contains a great deal of information which will be useful to the higher staffs of local authorities, and should be made known also to councillors, since in the local government world it is the lay members of the local authorities on whom in the last resort the success of establishment work depends. To our readers who are concerned with the larger local government units the book will certainly be useful. By reason of its "large authority" approach, we are a little sceptical about its being of much help to the general run of local authorities, whose problems differ in degree and tend to differ in kind.

The Law of Municipal and Public Entertainment. By F. D. Littlewood. London: Shaw & Sons, Ltd. Price 30s. net.

In this book Mr. Littlewood, who is town clerk of Cheltenham, sets out to bring within a single volume the law relating to the provision of public entertainment by local authorities under the Local Government Act, 1948, with some reference to other powers, and provisions of other statutes or the common law which affect public entertainment generally, whether provided by local authorities or not. As a matter of convenience, it has been arranged in two parts, referring respectively to the powers and duties of local authorities as purveyors of entertainment, and to the general law with which some of the large local authorities are concerned as administrators. There is no essential or very logical connexion between these two ideas, but we can believe that, for the legal officers of local authorities and for their entertainment managers, or similar persons who are concerned both to provide entertainment and to know what is the law with which they must comply, there may (as the learned author says) be advantage in having the whole within one set of covers. It should be explained that some provisions relating to entertainment have been omitted, or dealt with only in bare outline, as for example those most closely associated with the special London theatre area which is of no direct interest to local authorities at large. This being understood, officials of local authorities who are concerned will find in Mr. Littlewood's book most of the information they need for their specific purposes. There is a historical outline leading up to the Act of 1948, and a note upon the special difficulties of local authorities in this sphere. Then one finds statutory control of entertainment premises (generally and with reference to particular forms of entertainment) and a number of miscellaneous matters, such as copyright, defamation, and the law relating to Sunday—ending with entertainment duties. The Home Secretary's regulations for securing safety at cinematograph entertainments are not included, but the Home Office circular of 1950, with model licensing conditions, will be found in the appendix. This also contains a number of precedents, for use where local authorities are making entertainment contracts.

EPITAPH ON A CONVICTED PERSON

Taking other people's money,
That was broadly his offence,
But the only good it did him
Was to pay for his defence.

J.P.C.

BAKER STREET REFLECTIONS

This is the season of exhibitions, and the most attractive are by no means confined to the South Bank of the Thames. It was a happy inspiration that guided the pens of those distinguished correspondents who first mooted, in the pages of *The Times*, the idea of a Sherlock Holmes Exhibition, and the local authority has risen magnificently to the occasion. Romance takes root in unexpected places; bedded in the native soil of the Metropolitan Borough of St. Marylebone, sheltered under the roof of the Abbey-National Building Society, a new plant has flowered, fair and fragrant amid the rank surrounding crop of byelaws and mortgage-deeds. Loving care and nurture have brought to fruition a blossoming replica of the living-room at 221b, Baker Street, surrounded by lesser blooms of the most delightful varieties.

Here the physical eye can enjoy that Victorian interior pictured in the mind's eye of generations of admirers—the room where the Master lived and worked. Here is the famous dressing-gown, side by side with Dr. Watson's stethoscope, hanging on the inside of the door; there are the retorts used in Holmes's chemical experiments, and a hundred other objects vividly recalling the fascinating pages of Arthur Conan Doyle. There are "the diagrams, the violin-case and the pipe-rack . . . and a wax-coloured model of my friend, so admirably done that it was a perfect facsimile" (*The Empty House*). Nor are the great man's foibles concealed—vide *The Musgrave Ritual*—"his cigars in the coal-scuttle, his tobacco in the toe-end of a Persian slipper, and his unanswered correspondence transfixed by a jack-knife into the very centre of the wooden mantelpiece." (It is evident that his filing system, as well as his social habits, left much to be desired). There, too, is the permanent record of the occasion when "he would sit in an armchair, with his hair-trigger and a hundred Boxer cartridges, and proceed to adorn the opposite wall with a patriotic V.R. done in bullet-pocks" (*Ibid*).

In the past half-century Holmes has had innumerable imitators, but never an equal. "The science of deduction," as expounded in *A Study in Scarlet* and *The Sign of Four*, has proved too austere for this dilettante age. The so-called "detective-story" has either degenerated into the mere "thriller", packed with incidents of violence, and with few pretensions to literary style, or it has developed out of all recognition, into a psychological novel, usually of excessive complexity, and unsatisfactory in its dénouement.

For the ordinary lawyer, who fortunately spends little of his professional life in close contact with violent crime, the fascination of Sherlock Holmes lies in the intellectual mastery of his deductive methods. Not for him the fanciful weaving of ingenious theories, miscalled "intuition," nor the blind acceptance of circumstantial evidence untested by the searching light of cross-examination. "The net is drawn pretty close round Fitzroy Simpson," says Inspector Gregory in *Silver Blaze*, "and I believe myself that he is our man" Holmes shook his head. "A clever Counsel would tear it all to rags," said he."

But the prime defect of the present-day "detective-story" is the cheap and easy way out of an *impasse* by means of a reconstruction of the crime, "third degree" methods and the convenient collapse and confession of the accused. Few crime-story writers appear to be acquainted with the strict rule of law that "the prosecution must prove affirmatively, to the satisfaction of the judge who tries the case, that the admissions or confessions were not induced (a) by any promise of favour or advantage, or (b) by the use of fear or threats or pressure, by a

person in authority" (2 East, P.C. 657). Of the two classic instances quoted by Kenny (*Outlines of Criminal Law*, 15th edn., p. 470), "Tell, and you shall have some gin" speaks for itself, though the propriety of excluding a confession, made on the faith of this representation, has been doubted. As to the second, "If you will tell where the property is, you shall see your wife," (*R. v. Lloyd* (1834), 6 C. & P. 393), the learned author tactfully leaves the reader to infer for himself, according to taste, whether it was argued that these words fell under category (a) or (b) in the quotation from East, *supra*.

Aside from such elementary matters, Holmes knew well how to deal with that bugbear of the practising lawyer—the cunning client who thinks it clever to keep his adviser in the dark. "I cannot possibly advise you" he tells Blessington, in *The Resident Patient*, "if you try to deceive me." "But I have told you everything," Holmes turned on his heel with a gesture of disgust. "Good-night, Dr. Trevelyan," said he. "And no advice for me?" cried Blessington, in a breaking voice. "My advice to you, sir, is to speak the truth!"

A large proportion of cases are won or lost before ever they come before the Court; painstaking preparation and careful analysis are of greater importance than brilliant advocacy. This is a truism by no means limited to criminal matters, and the Council of Legal Education and the Law Society might do well to consider the inclusion of the cases of Sherlock Holmes, in their curriculum of legal studies. Practitioners, too, should be encouraged to give practical demonstrations of the method in training pupils in chambers and articled clerks:—

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"I am amazed to hear you say so."

"Elementary, my dear Watson. Did you not remark the jaunty airs he gave himself as he was ushered into the room by our extremely presentable female receptionist? Did you fail to observe the leer with which he greeted the entry of our provocative Miss Snooks with the afternoon post? No, Watson, he is not the type of man to limit himself to 'one woman, to the exclusion of all others.'"

"True. The method, when explained, is simplicity itself."

"Moreover, I will go so far as to assert that he is intimately associated with a female companion, thirty to thirty-five years of age, with an addiction to imitation jewellery. I think we shall find that she resides in a dwelling-house, the actual user of which has not received the approval of the Town Planning Authority. And I venture to doubt whether his true income, if it were fully investigated, would justify his application for legal aid."

"How can you say so?"

"The suit he was wearing was intended to impress us with his alleged poverty: it is of the style and pattern supplied by a grateful country, in 1945 and 1946, to those demobilised from the Armed Forces. It has been patched, recently and none too neatly, by a female amateur. But he had forgotten to disguise his feet."

"I beg your pardon?"

"I mean, Watson, that his shoes tell a story very different from his clothes. They are not of a type, unless I am much mistaken, sold by any of the Stores with which I am acquainted, but have been made specially for him. You may find it profitable to glance at my little monograph on the thirty-seven principal types of ready-made English foot-wear."

"Marvellous! But the female companion, her age, residence and tastes—how can you be so certain?"

"My dear fellow, you know my methods. Try to apply them to the case before us. You will find it an uncommonly pretty little problem."

(Any of our readers who makes the attempt will doubtless come to a similar conclusion.)

A.L.P.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 57.

POWERS OF LICENSING JUSTICES—A HELPFUL HIGH COURT JUDGMENT

In 1948, an on-licence was granted to an applicant by the Torquay licensing justices in respect of a local hotel. The licence was granted for a term of three years and a quarter and the following conditions were imposed: (a) Intoxicating liquor to be supplied only to residents and to those taking *bona fide* meals at the hotel, (b) No bar.

At the adjourned general annual licensing meeting held in March, 1950, the then chairman of the licensing justices stated that, in future, circumstances would have to be very exceptional before the justices would grant full licences in place of restricted licences. The chairman said that it was the unanimous opinion of the bench that, as licensing justices, they had treated residential hotels very generously in the past; that the applicants had applied for restricted licences saying this would meet their ends, and the justices felt that they were not receiving due reciprocal duty by the continual attempts to get full licences in place of restricted ones.

At brewster sessions, 1951, the applicant referred to above sought a new term licence free from conditions. The chairman, in dismissing the application said: "The bench have carefully considered the application but is not prepared to alter the policy for the table licences as granted. The licence for this hotel will be renewed on the old terms."

The licensee moved for an order of *mandamus* directed to the licensing justices, requiring them to hear and determine according to law his application on the ground that they refused his application this year because they had laid down a pre-determined rule that full licences would not be granted in place of restricted licences and that they failed to decide the application on its merits and were prevented from doing so by reason of the said rule.

Counsel for the applicant argued before the Divisional Court that the justices had no power to make such a rule and that they should consider each case on its merits, and he relied upon *R. v. Rotherham Licensing JJ. Ex parte Chapman* (1939) 103 J.P. 251.

For the justices, Mr. Derek Curtis-Bennett, K.C., claimed that they had power to lay down a general rule. The Divisional Court reserved judgment, and on July 24 last, Lord Goddard, C.J. read the judgment of the court dismissing the application with costs.

In the course of the judgment, Lord Goddard reviewed the facts and pointed out that the chairman of the justices in his affidavit said that they had been advised by their clerk that it was illegal for them to lay down any hard and fast rule in regard to applications for new licences and that they were fully aware that each application must be heard and judged solely on its individual merits, and this was what the justices had done in the present case.

Lord Goddard pointed out that the case was not without importance because it challenged the right of licensing justices to lay down for themselves a policy, or, at least, to announce that they have such a

policy. Lord Goddard emphasized that the fact that there was no objection to justices deciding among themselves the general lines along which they would exercise their judicial discretion had been recognized in a number of cases, and he referred to *R. v. Walsall JJ.* (1854) 18 J.P. 757 and *R. v. Holborn Licensing JJ. Ex parte Stratford Catering Co., Ltd.* (1946) 90 J.P. 159, stating that if the justices have decided on a policy to guide them in considering applications it is only fair that they should make it public so that applicants may know what to expect.

Lord Goddard stressed that justices cannot make a rule to be applied in every case without hearing it. "They may," he said, "lay down for themselves a general rule but they are bound to consider whether it is applicable to a particular case."

Lord Goddard then distinguished *R. v. Rotherham Licensing JJ.*, *supra*, from the present case and ended the judgment with these words: "In the present case, in our opinion, no fault can be found with the justices determining that as a general rule they would look with disfavour on persons who had come before them and obtained a restricted licence subsequently applying for a full licence, and would consider that in such a case there was a very considerable onus thrown on the applicant. We think that is well within their powers, but when an application is made in respect of premises which have hitherto held a restricted licence for one without conditions, the justices are bound to hear it and to consider whether, on the facts of the particular case, there is enough to take it out of the general rule which they have laid down. That is what we think the justices did in the present case. We think they meant to decide that they were not prepared to alter in the particular case before them the general line of policy which they had laid down in this class of case."

COMMENT.

This decision will be of the utmost value to licensing justices throughout the country as it clarifies an issue which has for long been somewhat obscure. It is not wholly surprising that licensing benches should have become somewhat chary in recent years of announcing in public their policy upon any particular aspect of their work for it cannot be denied that where, as here, a licensing bench announces, through its chairman, that it will hesitate long before permitting an on-licence free from conditions (except payment of monopoly value) to be exchanged for an on-licence subject to conditions, an unsuccessful applicant for conversion may well feel that the bench did not commence to hear his application with that unbiased mind which all benches are deemed to possess.

The *Holborn* case decided in 1926 arose, it will be remembered, from the fact that the licensing justices had made a general rule that they would not permit a transfer to a person who had not an agreement entitling him to at least three months' notice to terminate his engagement and they refused a particular application because the proposed transferee was liable to have his tenancy terminated at a month's notice. The Divisional Court refused *mandamus* on the ground that the

licensing justices' refusal to transfer was not merely because they had laid down for their own guidance a general rule, but had in fact inquired into the merits of the particular case, and Salter, J., in the course of his judgment, stated categorically that there was no reason why licensing justices should not, as he put it, adopt a standard or practice which seems to them right, adding that if they did so it was both right and convenient that their practice should be stated publicly.

This decision was of great value to licensing justices and left the law on this point in a perfectly clear state, but, unfortunately, certain passages in the judgments given in *R. v. Rotherham Licensing JJ.*, *supra*, appeared to whittle down the powers stated by the court in the *Holborn* case to be possessed by licensing justices.

It is unnecessary here to recapitulate the facts in the *Rotherham* case, for they were of a somewhat special nature and it will suffice for licensing justices and practitioners alike to remember hereafter the passage with which Lord Goddard concluded his judgment in the case reported above, which sets out in crystal clear language the manner in which licensing justices should approach applications made to them.

(The writer is indebted to Messrs. Kitsons, Easterbrook & Co., solicitors, Torquay, for information in regard to this case.)

PENALTIES

Marylebone—August, 1951—Assaulting a bus conductor, three defendants—Two defendants fined £5 10s. each and to pay one guinea costs—one defendant fined 30s. The defendants were asked by the conductor to let passengers off the bus first, and as they left the bus one pulled his hair, another tried to kick him in the face, and the third punched him on the jaw twice.

Chippenham—August, 1951—Causing unnecessary suffering to a dog—fined £15; to pay £1 19s. costs. Defendant ran over a dog and took no action to ascertain the extent of its injuries. The dog was seen two days later unable to stand and trying to crawl along the road. It was found to have multiple fractures to the pelvis and a fractured spinal vertebra, and had to be destroyed.

PERSONALIA

APPOINTMENTS

Mr. Willis Clarke, assistant chief constable of Derbyshire since 1941, has been appointed chief constable. He has received thirteen commendations, including one for arresting an armed murderer in 1925.

RESIGNATION

Mr. J. B. Measures, deputy clerk of the New Forest R.D.C., has resigned from his position. His successor is Mr. T. S. Addison, barrister-at-law.

OBITUARY

Mr. A. E. N. Ashford, clerk of the New Forest R.D.C., died suddenly on August 18. He had held this position since 1932, being the first full time clerk, and he had been associated with the district council for nearly thirty years.

NEW COMMISSIONS

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Mrs. Elsie May Childs, Leicester Road, Measham.
Geoffrey Williams Clarke, Bitteswell Manor, Bitteswell.
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William Frank Eason, Asfordby Road, Melton Mowbray.
Baron Hungarton, Manor House, Hungarton.
Dr. Roy Maurice Jenner, 152, Ashby Road, Loughborough.
Mrs. Minnie Amelia Griffin, 81, Grange Road, Hugglescote.
Frank Illson, Epiney, Alexander Avenue, Enderby.
John Eric Jackson, 155, Nanpantan Road, Loughborough.
Mrs. Margaret Mansell, Knipton.
Roy Mills, Rydal House, Clarence Road, Hinckley.
The Hon. Barbara Jacqueline Norman, Pickwell Manor, Somerby.
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CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

HOURS OF WORK

In his letter in your issue of August 11, "Villager" suggests that, if an agricultural labourer can work forty-eight and more hours a week, a local government clerk should do the same. While I cannot argue whether or not forty-eight hours is "right" for the agricultural labourer—it is for him, and those who employ him, to discover his optimum working hours—I do suggest that there is a great deal of difference between work which is mainly manual and usually varied, and work which is mainly intellectual, calling for continuous mental concentration. Repeated psychological studies have shown that the period during which the average person can sustain intellectual work at full pressure is limited and that, once this limit has been reached, there is a substantial fall in accuracy and efficiency, while the experience of most employers of clerical workers, in the civil service, banking, insurance, and the business and commercial worlds would seem to show that the thirty-eight hour week is not far short of this limit. Of course, the limit varies for different workers and different types of work—and many local government officers do, in practice, work much more than the official thirty-eight week—but this would seem to be, in general, the optimum figure, to exceed which must result in declining efficiency and increasing cost to the employer.

A better way to increase output would be to improve individual efficiency and to reduce or eliminate unnecessary tasks. Local government officers are seeking both these objectives, through better education and training, increasing experiment in "organization and methods", and the work of the Local Government Manpower Committee.

Yours faithfully,

A. W. SPOOR,
Public Relations Officer.

National Association of Local Government Officers,
1 York Gate,
Regents Park, N.W.1.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

POLICE PAY

I have read with interest the article on Police Pay in the *Justice of the Peace and Local Government Review* for July 21, 1951, and I would like to draw your attention to the two tables of comparative pay—Police v. Local Government Officers, shown therein.

A constable on minimum pay is shown as £483 per annum, whereas a local government officer in the General Division and on maximum is £425 per annum. In your article you do not state that the £483 per annum for the constable includes £108 per annum emoluments, i.e., value of pension and uniform—see Oaksey Part I, appendix III, table I—and you have not added to the local government officer's pay his emoluments, i.e., value of pension.

Further, you do not state that the pay shown for a local government officer is for working a thirty-eight hour week as against the constable's forty-eight hour week.

Thus it will be seen that if a local government officer worked for forty-eight hours each week during a year, his gross pay would be £536 per annum, and if you allow £100 value of pension, his pay would work out at £636 per annum, as against the constable's £483 per annum—inclusive of emoluments. Without adding the emoluments to the local government officer's pay, it will be seen that his rate of pay for a forty-eight hour week, exceeds an inspector's minimum gross pay by £6 per annum (inspector's minimum gross pay £530 per annum).

The subjoined tables* set out the pay of police officers—ignoring the decimal fractions—and the value placed on emoluments, i.e., value of pension and uniform, by the Oaksey Committee, with which incidentally, members of the police service have never agreed.

In view of the wide publicity enjoyed by your Journal and the many interested parties it reaches, I consider that it is only fair to the police service, and to those persons interested in the question of police pay, that the true picture should be presented to your readers through the medium of your columns.

Yours faithfully,

H. H. TALBOT,
Chief Inspector.

Police Station,
Romford.

[We thank our correspondent for his letter. Our contributor writes: "I do not think that in making comparisons account should be taken of the number of hours per week without also taking account of all other differing conditions of service such as length of annual holidays and particularly in comparisons with the police service where this period is unlimited—maximum periods of paid sick leave. Moreover, it must be cold comfort to a local government officer to be informed that if he worked forty-eight hours a week he would receive £536 per annum when in fact he works thirty-eight hours and receives only £425."

"The pension value cited in Chief Inspector Talbot's letter (fourth paragraph) is overstated at £100 and suggests that police officers do not fully appreciate the relative advantages of their pension scheme. The local government officer pays six per cent. of his salary towards his pension; this contribution was fixed in 1939 on the basis of sharing the cost equally between the officer and the local authority. The Government actuary calculated the value of the police pensions scheme to be the equivalent to twenty-five per cent. of pay; of this the police officer pays five per cent., so that four-fifths of the cost of his pension is met from public funds.

"The figures of police pay and emoluments in the table given, *supra*, do not include the amount of allowance paid in cash, namely, rent allowances, income tax compensatory allowance and boots allowance—valued by the Oaksey Committee (on the basis of average amounts paid) at—

Constable—maximum	58 per annum.
" —maximum	61 " "
Sergeant —maximum	75 " "
Inspector —maximum	81 " "

Ed., J.P. and L.G.R.]

* See Table below.

	Pre Oaksey	† Pay recommended by Oaksey, and now in force	Value placed on emoluments by Oaksey, i.e., value of pension and Uniform	Present Police rate of pay for 38 hour week		Present actual Police Pay per week for 48 hours	Present pay of Local Government Officers at 38 hours per week, not including emoluments, i.e., value of pension. Maximum General Grade		Present rate of pay of Local Government Officers on 48 hour weekly basis	
				Per Week.	Per Annum.		Per Annum.	Per Week.	Per Annum.	Per Week.
Constable. Minimum	£273 p.a.	£330 p.a.	£108 p.a.	£4 8s. 8d.	£215	£6 6s. 6d.	£425	£8 3s. 0d.	£536	£10 5s. 11d.
Constable. Maximum	£365 p.a.	£420 p.a.	£123. 10s. p.a.	£6 6s. 8d.	£329	£8 1s. 0d.				
Sergeant. Maximum	£430 p.a.	£485 p.a.	£131 p.a.	£7 7s. 3d.	£384	£9 5s. 0d.				
Inspector. Maximum	£515 p.a.	£575 p.a.	£149 p.a.	£8 4s. 3d.	£427	£11 1s. 0d.				

† See Statement on Pay and Conditions of Service of Police. Published by H.M. Stationery Office in 1949. Cmd. 7707.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—**Criminal Law—Indecent picture—Urine in grounds of county hospital—Whether public place under Indecent Advertisement Act, 1889, s. 3.**

In the grounds of a county hospital in the area under my charge, is a urinal which is open to both staff and members of the public who are visiting patients in the hospital on permit.

Recently a man—an employee at the hospital—was caught pencilling filthy, indecent drawings on the walls of the urinal, and the matter was referred to the police by the hospital authorities with a view to proceedings.

My concern is whether or not this urinal can be regarded as a public place within the meaning of the Act quoted. S. BEACONPIRE.

Answer.

As it appears that many members of the public can make use of this urinal, by permission, we think it can properly be regarded as a public urinal to which the section applies.

2.—**Land—Easements—Right of way—Increase of burden.**

My council have purchased a small private park for the purpose of a public park. The park is situated in the middle of a private estate of houses, which are separately owned, and the only means of access from the public highways are over unmade estate roads. The estate roads were laid out towards the end of the last century.

In 1925 the then owners of the park were seized thereof "Together with a perpetual right of way at all times in common with all other persons entitled thereto of ingress regress egress passage and way with or without horses or other animals and with or without carriages and other vehicles into through and from the estate roads coloured brown."

In 1930 the 1925 owners sold their interest in the park and the roads subject *inter alia* to the following stipulations: (a) that in the event of the estate roads and sewers being taken over by the local authority, the purchaser would pay a due proportion of the cost of making up; (b) the vendors reserved the right to control the use of the estate roads by closing the same once a year against all traffic.

These stipulations were in turn included in the conveyance of the park to my council, who were of course given the same rights of way over the estate roads as above mentioned.

It may here be added that so far as my council are aware the estate roads have never been closed during the last few years pursuant to stipulation (b) mentioned above, although it is understood that the roads were closed once a year in the distant past. The estate roads have in fact been used by traffic, vehicular and otherwise, for a number of years, although much of the vehicular traffic has no doubt consisted of tradesmen's vans. It is not proposed at the moment to make up the estate roads.

The question at issue is whether the right of way conferred upon my council, when the park was sold to them, permits the general public to make free use of the estate roads for the purpose of resorting to the park. Upon the authorities of *Henning v. Burnet* (1852) 8 Exch. 187; *Tyne Improvement Commissioners v. Inrie* (1899) 81 L.T. 174; *Seriff v. Acton Local Board* (1886) 54 L.T. 379; *Lloyds Bank v. Dalton* [1942] 2 All E.R. 352, the answer seems to be in the negative.

It is submitted, however, that it may well be that these estate roads have become highways by virtue of implied dedication and acceptance, and that if this is so the general body of the public may well be entitled to use these roads for obtaining access to the park, without reference to the right of way expressly given to my council in the conveyance of the park to them. You are therefore requested to advise:

1. Whether the public may use the estate roads for the purpose of obtaining access to the park.

2. If the answer to 1 is in the affirmative, whether a right of vehicular access to the park exists in favour of the public. ACC.

Answer.

1. This is evidently the case upon which we advised at an earlier stage at 113 J.P.N. 101. The risk run by the council may not be great, and diminishes with time. By this we mean that the estate owners presumably knew of the purchase by the council, and the council's intention of letting the erstwhile private park be used as a public pleasure ground, but have done nothing to warn the council, or to assert their right of closing the roads, in the two years since we answered the earlier question. Whilst dedication as a highway is a matter of fact, to be decided by a jury or by the court acting as a jury, we do not think the owners' abstinence from closing the roads affords strong evidence of dedication in this case, but—on the other hand—injunction

is a discretionary remedy, and the longer the owners hold their hand the smaller is the likelihood of their obtaining an injunction on the grounds indicated in our former answer.

2. As will be inferred from what we have said, and what we said in 1949, acquiescence in a few tradesmen's vans and private cars proceeding to the estate is one thing, and regular use by all and sundry with cars is quite another, so that a court might be slow to infer dedication. By allowing vehicular as well as pedestrian access to the pleasure ground, the council would increase the risk against themselves. The owners of the soil would hardly be dammed by unlimited pedestrian access plus access by the council's service vehicles, but if the public at large were allowed to drive into the pleasure ground the estate roads would be cut up, and the owners might feel impelled to take proceedings.

3.—**Landlord and Tenant—Allotment—Notice to quit—Arrears paid—Whether notice avoided.**

A tenant of an allotment belonging to my parish council became in arrear with his Michaelmas instalment of rent: a notice requiring payment was duly served and, as payment was not then forthcoming, and the rent being in arrear for more than forty days, a month's notice to quit was served under s. 30 of the Allotments Act, 1908. On service of this notice the tenant paid his Michaelmas rent, and a receipt has been issued "without prejudice to the notice to quit." Can you please advise me whether my council are still at liberty to proceed under the section, or whether payment of the rent nullifies the notice to quit? Should the notice to quit expire on the anniversary of the commencement of the tenancy, or can it expire at any time? COUNTRYMAN.

Answer.

Payment of the rent, which was overdue, and its acceptance by the lessor, do not nullify the notice to quit. The notice is operative on expiry of one month from its date.

4.—**Licensing—Application to strike club off register—Application for summons to "court"—Directions of "court" as to service—Licensing (Consolidation) Act, 1910, s. 95 (3).**

Section 95 (3) of the Licensing (Consolidation) Act, 1910, states: "If the court grant a summons on the complaint the summons shall be served on the secretary and on such other person as the court may direct." This would appear to require a variation from the normal procedure of making a complaint before one magistrate in private, in so far as the complaint should be made in open court. Otherwise, there will be no guidance by "the court" on the persons, if any, other than the secretary, on whom the summons is to be served.

Is this view correct?

Answer.

Application for summons is commonly made in these circumstances to a single justice under the Summary Jurisdiction Acts, and we know of no instance where this procedure has been criticised. But the subsection clearly contemplates application being made to "the court" and for directions as to service upon persons other than the secretary being given by "the court," and we agree with our correspondent's view. N. MIPH.

5.—**Licensing—Whether "alteration" may be made to off-licensed premises so as to take in adjoining premises—Whether application should be made for new off-licence in respect of extended premises.**

The licensee of premises holding an off-licence for the sale of beer, wines and spirits, has purchased the premises adjoining and proposes to incorporate them in the original licensed premises making one large shop frontage out of the two premises. It will be appreciated that only the one house was licensed. Can the licensee make such alteration for the purpose of taking in the additional premises and so use the two houses under the licence which was granted in respect of the one house only?

It is suggested that he may be said to be making alterations only and that justices have no control over such alterations, but surely the taking in of the additional premises is rather more than alterations? Should the purchased premises also be made the subject of an application for a licence and generally what is the position? NAM.

Answer.

Section 71 of the Licensing (Consolidation) Act, 1910, requires the consent of licensing justices to certain alterations to on-licensed premises; there is no such requirement in relation to off-licensed premises. Therefore, alterations may be made to off-licensed premises

at the will of the licence holder. Nevertheless, we think that the decision in *R. v. Weston-super-Mare Licensing Justices, Ex parte Powell* (1939) 103 J.P. 95, furnishes a useful guide of the extent to which the law defines alterations. If, as seems to be the case here, the premises when enlarged will still be within the ambit of the licence, we think that the alterations may be carried out without the necessity of obtaining a new licence for the extended premises.

6.—Public Health Act, 1925, s. 19—Naming of streets—Objection by householder to affixing name.

Section 19 of the Public Health Act, 1925, is in force in this district and empowers the council to "cause the name of every street to be painted, or otherwise marked, in a conspicuous position on any house, building or erection in or near the street, and shall from time to time alter or renew such inscription of the name of any street, if and when the name of the street is altered or the inscription becomes illegible." The council have embarked on a programme of painting existing street name plates, and the fixing of additional street name plates throughout the district, and in certain places the council employees have been prevented from fixing new street name plates on the walls of properties by the owners concerned. Section 19 of the Public Health Act, 1925, whilst providing penalties in the event of any person destroying or defacing any inscription of the name of the street does not deal with the obstruction which my council has encountered, I shall be glad to have your advice as to whether:

- (a) there is any appropriate notice to serve upon the objecting owners and/or occupiers, and
- (b) what action, if any, can the council take to compel owners to permit the fixing of street name plates?

ARDA.

Answer.

There seems to be no direct judicial guidance, perhaps because householders have ordinarily no strong motive for resisting entry by the council's workmen, so long as the latter do not, for example, injure the front garden. The section is stronger than you have stated: it does not merely "empower" the things named, but says the council "shall." But as against this the conjunction of "shall" with "any house," etc., is peculiar drafting. It might mean that if A objects the council must try to find a house in the right situation when B or C will acquiesce. In face of this language, we do not advise forcible entry, even in reliance on s. 308 of the Public Health Act, 1875, with which the Act of 1925 is by s. 1 to be construed. Section 305 of the Act of 1875 is (unlike the corresponding section in the Act of 1936) too narrowly framed to be used here, and in our opinion the technically correct procedure is an action for a declaratory order: *Lamacraft v. St. Thomas R.S.A.* (1880) 44 J.P. 441; *Wheatcroft v. Matlock Local Board* (1885) 52 L. T. 356, coupled with an injunction restraining the owner from interfering with the council's performance of its statutory duty. There is no particular form of notice. We advise a letter saying that the section is imperative upon the council; that the council would much prefer not to put the owner, etc., to the cost and unpleasantness of legal proceedings, but that unless reasonable facilities are given the council will have no alternative. If in any case you find that the householder has a plausible reason (e.g., he does not want the council's ladder planted in his tulip bed) an assurance of taking reasonable care, and compensating in accordance with s. 308 of the Act of 1875 for any accidental damage, should overcome the objection and would certainly impress the judge in the council's favour if in the end they did have to seek an injunction.

7.—Town and Country Planning—Compensation under old Acts payable after appointed day—Authority liable.

A county district council granted permission in March, 1945, under the Town and Country Planning (General Interim Development) Order, 1933, to a proposed developer to develop a site for houses, shops, and a church. This permission was revoked in May, 1948, following the holding of a local inquiry by the Minister of Town and Country Planning on the ground that the land was zoned as public open space. A claim for compensation was received before the appointed day from the proposed developer in respect of abortive expenditure incurred resulting from revocation by the council of permission to develop. The claim was made under s. 7 of the Town and Country Planning (Interim Development) Act, 1943, in respect of surveyors' fees, but was not agreed until January, 1951. Further claims arising under s. 7 have been received after the appointed day in respect of revocations made before that date.

Opinion is desired on the following points:

1. Whether compensation arising under s. 7 of the Act of 1943 and not settled until January, 1951, is a liability of the county district council as a former interim development authority for the purposes of the Town and Country Planning Act, 1932, or whether the liability falls to be met by the county council, in view of the transfer on the appointed day of liabilities for old planning functions from district councils to county councils by the Town and Country Planning (Trans-

fer of Property and Offices and Compensation to Officers) Regulations, 1948.

2. If the liability for compensation falls to be met by the county district council, can grant be claimed under s. 96 of the Town and Country Planning Act, 1947, and is any date specified before which such claims must be made?

3. In respect of the further claims for compensation under s. 7 received after the appointed day, is it in order for them to have been made on the district council, or should they have been made against the county council as the local planning authority who would be responsible for their settlement?

4. If the district council decided themselves to meet any claims under s. 7 after the appointed day, would they be acting *ultra vires*, and would payments made in settlement of such claims be the subject of disallowance by the district auditor?

ASU.

Answer.

1. In our opinion, by the county council.
2. Does not arise.
3. On the county council.
4. We think so.

8.—Weights and Measures—Coal—Deficiency in weight—Form of summons under s. 29 of Act of 1889.

Your opinion is requested on the following point arising out of a prosecution under s. 29 of the Weights and Measures Act, 1889, the facts of which are set out:

An inspector of weights and measures intercepted a vehicle, belonging to a limited company, which was laden with sacks of coal. He weighed the sacks and found a considerable number to be deficient in weight. The representation of the weight was made by the company in two ways, first each sack bore a metal tag marked "140 lbs." and secondly the driver of the vehicle carried delivery notes setting out the names of the purchasers of coal and the weights to be delivered to the purchasers.

Nine summonses were issued against the company under s. 29 of the Weights and Measures Act, 1889, as follows: "that you on the 23rd day of February, 1951, unlawfully did carry upon a certain vehicle for delivery to a purchaser a certain sack of coal which said sack of coal on being duly weighed by J, an inspector of weights and measures, was found to be of less weight than that represented by you, the same being deficient to the extent of 13 lbs., contrary to s. 29 of the Weights and Measures Act, 1889."

The defendant company then issued summonses against three of their employees under s. 12 (5) of the Sale of Food (Weights and Measures) Act, 1926, charging them as the actual offenders.

At the hearing of the case the facts of the prosecution's case were not disputed and it was not denied that the coal was being delivered to purchasers. The case was not completed at the first hearing, but was adjourned for fourteen days, and when the hearing was resumed the solicitor representing the three employees submitted that the summonses issued by the prosecution against the defendant company were invalid by reason of the fact that they did not disclose any offence under s. 29 of the 1889 Act. He submitted that that section did not provide that it was any offence to carry for delivery to a purchaser coal which is deficient in weight.

Counsel for the defendant company admitted that the point had not occurred to him, but of course he supported the submission, and after hearing arguments the court dismissed the summonses on that ground.

The form of wording used in these summonses has been employed by my authority in prosecutions under this section for many years and this is the first occasion on which it has been challenged. I consider that the summons is in proper form having regard to the provisions of subs. (1) and (2) of s. 29 of the 1889 Act, and also s. 32 of the Criminal Justice Act, 1925.

An opinion is requested (1) on the validity of the form of the summons in this case and (2) if you consider that the form of summons is defective, on the form of wording which should be employed. SUM.

Answer.

- (1) Inasmuch as the offence by the company would not be that of carrying the coal with a false description as to weight but of selling it, we think there was substance in the objection, although it is not surprising that objection has not been taken before, since the company would probably know well enough what charge they would have to meet in fact.

- (2) We suggest some such wording as "for that you, being the seller of a sack of coal which was in course of delivery to a purchaser, represented the weight thereof to be—pounds, and on the sack of coal being weighed by—an inspector of weights and measures, it was found to be of less weight than that represented by you whereby you were guilty of an offence against s. 29 of the Weights and Measures Act, 1889."

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